

Stephen and Beverly Noller and )  
Michael and Nancy Halwig, )  
Complainants, )  
 )  
v. )  
 )  
 )  
Daufuskie Island Utility Co., Inc., )  
Respondent. )

**DIRECT TESTIMONY OF  
BEVERLY NOLLER  
ON BEHALF OF COMPLAINANTS**

**Q. PLEASE STATE YOUR NAME, ADDRESS AND YOUR INTEREST IN THIS MATTER.**

A. My name is Beverly Noller and my address is 6045 Forsyth Road, Macon, Georgia 31210. My interest in this case is that I own 36 Driftwood Cottage Lane with my husband, and am a Complainant in this matter.

**Q. PLEASE DESCRIBE THE REASON OR REASONS YOU BROUGHT THIS COMPLAINT TO THE PUBLIC SERVICE COMMISSION.**

A. The Daufuskie Island Utility Company, Inc. (DIUC) refused to take any action to repair or replace its water and sewer mains that Hurricane Matthew damaged in October 2016, and instead stated that any replacement facilities would have to be installed and paid for by its customers in the part of Driftwood Cottage Lane that was cut off from the remainder of it. Only two families have built houses on the lots above where the damage occurred, my family and the Noller Family. These mains served all of the lots on Driftwood Cottage Lane, not just the two houses that were built when the storm came in 2016. Our home is behind a bulkhead on the ocean and had relatively minor damage from the storm, and no significant loss of electrical service. Other houses on Driftwood Cottage Lane not protected by a bulkhead were severely damaged and had been abandoned pending a beach renourishment project for which the Melrose Property Owners Association has received a permit from the Department of Health and Environmental Control.

The loss of water and sewer service has caused the loss of use of our home on Driftwood Cottage Lane for over two years and caused other personal damages. The response of DIUC to our questions about when it would restore service was that they would not be responsible for restoring service, and that we, as its customers, were responsible for installing the means by which it could provide water and sewer service to our home. A letter dated December 10, 2015 was the first indication of this position by DIUC. After Hurricane Matthew in 2016, DIUC reiterated its position. While DIUC never provided a draft agreement over this matter until January 2018, it did provide a recommendation that we hire a certain engineer and a certain construction company to perform the work. We did not know at the time that the construction company referred to us was owned by an owner of DIUC, Mr. Terry Lee of Lee Contracting Company. We received his bid in August 2017. We decided that the bid from Mr. Lee was quite high, \$133,255.88, and got a second bid, from Pinholster Construction at \$65,349, which was lower and which we accepted in November 2017.

The statement that we routinely heard from DIUC was "Daufuskie Island Utility Company will continue providing service to all customers as originally designed and in accordance with all regulatory requirements". While this statement was repeated several times, it was clearly untrue because after Hurricane Matthew DIUC did not make an effort to restore service or to substantially assist us in what we were told we would be required to do to regain water and sewer service for our home. In fact, DIUC also dismantled the grinder equipment on

Driftwood Cottage Lane after the hurricane, making it impossible to restore service until it was replaced. The replacement they approved was for each customer to have a grinder installed on their own property at our expense.

While trying to re-establish water and sewer service to our home so that it could be used again, we were also struggling with the Melrose Resort to achieve an alternate access since Driftwood Cottage lane was not going to be rebuilt by the Melrose Property Owner's Association. We sought to include the replacement mains in the same location with the Resort. We did receive cooperation from the Resort owner but the Resort went into bankruptcy in 2017 and the new owner, its former lender, stopped the work we were engaged in at the end of 2017 because not all of the documentation it would require was in place to cross the golf course with the water and sewer mains. We had signed the final contract and paid the money to install the mains into an escrow account with the contractor in November of 2017, and had most of the work, except for the actual crossing of the golf course, completed when, in early December, the new Melrose Resort owner's attorney required us to stop work pending resolution of its requirements.

We had previously provided to DIUC a draft letter to use in approaching the Resort to ask for the easement crossing the course for the water and sewer mains which ultimately would be owned by DIUC. We have never seen any evidence that DIUC used that letter or otherwise communicated in writing with the Resort owner to acquire the easement. We had no recourse, other than to abandon our beach home, to then also engage with the Resort's new owner and finally achieve a written easement and satisfy their other requirements for the new DIUC mains to cross the golf course. This was done and the work was finally completed in August of 2018.

Once the replacement facilities were installed and the engineer had signed off on it as complete, we requested DIUC to turn on the water at least temporarily so that we could determine if there were any leaks or other problems from the return of water service after not having water service for almost two years. Instead of turning on the water, the DIUC outside counsel provided an "Agreement Addendum" that required, among other things, that we pay the expected federal tax on the cost of the installation that we had paid for the DIUC mains replacement, and that we give up any right to make any complaint or claim against DIUC concerning this matter. We refused to agree to those terms and brought this Complaint to the Commission.

I refer to and incorporate herein my exhibits as Complainants' Exhibits filed with my discovery responses and attached hereto.

**Q. What relief do you seek in this Complaint?**

I believe DIUC should be responsible for replacing its mains and equipment damaged by Hurricane Matthew and not impose this on only the customers affected by its equipment loss. The DIUC agreement we were presented with,

after hiring the engineer and contractor, obtaining an easement on the golf course in its favor, and substantially beginning the replacement work, was the only alternative to abandoning our beachfront home, which is not an alternative. With no other choice and after losing over fifteen (15) months of personal use and rental income, we had to agree to it. The agreement does not contemplate, in our understanding of it when forced to accept it, any costs for us but the "cost of installation" as stated in the agreement. The demand for attorney's fees and for the expected federal tax on the cost of installation is not within the agreement. The Public Service Commission should allow reserves or contingencies for equipment damage or some amount of insurance, like any for profit business would have, for its regulated utilities. The Commission should require DIUC to cover the cost of the replacement equipment and not require payment of the attorney's fees or expected tax

**Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

**A.** Yes, it does.

**Q. THANK YOU.**

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLIA  
**DOCKET NO. 2018-364**

Stephen and Beverly Noller and )  
Michael and Nancy Halwig, )  
Complainants, )  
 )  
v. ) CERTIFICATE OF SERVICE  
 )  
 )  
Daufuskie Island Utility Co., Inc., )  
Respondent. )  
 )

I hereby certify that on January 16, 2019, I caused to be served a copy of the Direct Testimony of Beverly Noller upon:

Public Service Commission of South Carolina  
Attn: Clerk's Office  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210

Andrew Bateman, Esq.  
Jeffrey M. Nelson, Esq.  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, South Carolina 29201  
*Counsel for ORS*

Thomas P. Gressette, Jr., Esq.  
Walker Gressette Freeman & Linton, LLC  
Post Office Box 22167  
Charleston, SC 29413

January 16, 2019.

/s/ Newman Jackson Smith  
Newman Jackson Smith  
NELSON MULLINS

**COMPLAINANTS' EXHIBITS**

<b><u>DATE:</u></b>	<b><u>EVENT:</u></b>	<b><u>DOCUMENTATION:</u></b>
October 3, 2015	Hurricane Joaquin	
October 14, 2015-12:05 p.m.	Mike Halwig writes to Guastella re need immediate plan to protect water and sewer pipes behind the houses on Driftwood Cottage Lane	Email
October 14, 2015-1:56 p.m.	Carolyn Carleton (in Guastella's office) responds that he is aware and that there has been direct communications with their operators and they are doing everything to continue service to Halwigs	Email
October 26, 2015-9:22 a.m.	Mike Halwig follow-up with Guastella re request of 10/14/15	Email
October 27, 2015-8:56 a.m.	Carolyn Carleton responds "we are continuing to provide uninterrupted service to all customers in the Driftwood area. Our operators are monitoring the service main daily and are working with outside contractors to protect the system."	Email
October 27, 2015-9:09 a.m.	Mike Halwig asks Carolyn Carleton of plans to protect the system	E-mail
October 27, 2015-5:31 p.m.	Carolyn Carleton advises Mike Halwig that water service will be temporarily shut off due to high tides and wave action. Crews will be on site and service is expected to be restored	E-mail

	by the end of the day on 10/28/15.	
October 27, 2015	Interruption of water and sewer service per communication of DIUC to Halwig	Email
October 27, 2015-8:59 p.m.	Josey requests update from Ken Crow re restoration of water and sewer service and advises clients have power	Email
October 28, 2015-8:38 a.m.	Mike Halwig advises appreciation of update but what is Utility's plan for maintenance of water/sewer across our properties?	Email
October 28, 2015-12:23 p.m.	Ken Crow provides update to Josey indicating that water will be on in a few hours	Email
November 2, 2015-6:36 p.m.	Josey provides proposed access route to Halwig as presented by Crow	Email
November 3, 2015-10:20 a.m.	Mike Halwig requests specific plan of action from Guastella's office	Email
November 3, 2015-4:37 p.m.	Carolyn Carleton responds to Mike Halwig, "DIUC will continue providing service to all customers as originally designed and in accordance with all regulatory requirements"	Email
November 4, 2015-5:31 p.m.	Josey corresponds with Ken Crow re access to property to reinforce sea wall	Email
November 9, 2015	Josey sends draft letter directed to DIUC to Ken Crow for review	Email
November 10, 2015	Halwig attorney Josey Communication to DIUC	Letter

December 4, 2015	Permit for Beach Renourishment	DHEC Permit for Melrose POA for renourishment of beach at Melrose Resort
December 10, 2015	DIUC correspondence to Halwig attorney (Josey)	Letter
December 23, 2015	Josey provides Ken Crow with figures re economic impact to the Club of lost rentals for his home (in addition to the personal impact to him) and confirms that Ken is meeting with Resort owner to review situation and possible remedies	Email
January 13, 2016	Ltr. From Daufuskie Island Fire District (Eddie Boys) to Mike Halwig re gravel path	Letter
January 15, 2016-8:54 a.m.	Mike Halwig writes to John Thompson of the MPOA Board re Driftwood Cottage Lane access	Email
January 15, 2016-2:59 p.m.	Response from Ken Crow to Josey indicating that the MPOA has no authority over the property involved	Email
January 26, 2016	Letter from John Thompson of MPOA to Dr. Halwig re access to your home	Letter
February 2, 2016	Letter from Josey to Ken Crow and John Thompson of MPOA re Urgent need for property access to 46 Driftwood Cottage Lane	Letter
March 4, 2016	General agreement on easement for access on Melrose property	Email
May 30, 2016	Access across golf course constructed	Email, photo
October 8, 2016	Hurricane Matthew	



October 13, 2016-7:05 p.m.	Josey responds to Mike's e-mail and indicates that new golf course owner was struggling financially and doubt if storm damage will help. Maybe change for new ownership or will accelerate governmental re-nourishment support.	E-mail
December 8, 2016-December 24, 2018	Interruption of water and wastewater service due to road washout	
October 20, 2016	Halwig Communication to DIUC concerning service	Email
November 1, 2016	Halwig Communication to DIUC concerning service	Email
November 8, 2016	Halwig Complaint to ORS	Web form
November 28, 2016	Notification of damage to access Halwig to Melrose	Email
December 2, 2016	ORS response to Halwig Complaint	Letter
December 8, 2016	Mike Halwig advises Guastella that he has received verbal approval from JT Bramlett, Pelorus to allow water/sewer to go across the 17 <sup>th</sup> hole. "What needs to be done to relocate ASAP. We have been without service for 2 mos."	Email
December 9, 2016	Carolyn Carleton of DIUC acknowledges Halwig e-mail and indicates she will forward message and any written documentation.	Email
December 13, 2016	Halwig communication to DIUC	Email and draft letter for DIUC use

December 20, 2016	Halwig attorney Josey communication to DIUC	Letter
December 21, 2016	DIUC acknowledges receipt of letter from Josey and indicates DIUC has been in contact with both state and regulatory agencies and private companies concerning this matter and will provide information ASAP.	Email
January 4, 2017	Noller communication to Melrose owner copying DIUC	Email
January 5, 2017	Josey requests an update from Guastella concerning 12/20/16 correspondence to DIUC	Email
January 9, 2017	DIUC communication to Halwig attorney	Letter via Email (w/ attachment)
January 10, 2017-10:58 a.m.	Mike Halwig asks Mike Guastella to advise whether they can proceed with relocation across the 17 <sup>th</sup> hole from existing utility easement to Driftwood Cottage Lane. Also requests contents of regulation 103-502.3 and recommendations for contractors	Email
January 10, 2017-3:44 p.m.	Halwig to Josey regarding DIUC responsibility to provide service and not the Halwigs	E-mail
January 11, 2017	Josey advises DIUC that "Article 5 of Section 103 of S.C. regs makes it clear that the utility-that is granted exclusivity by the PSC-has primary duty to maintain and restore service for the area to	Letter

	which they have been granted such exclusive rights.”	
January 18, 2017	Halwig communication to Office of Regulatory Staff (Campbell)	Email
January 27, 2017	DIUC communication to Halwig attorney Josey recommending location of tie in	Letter
April 25, 2017	DIUC writes to Fred Sororian indicating they approve the plans and are willing to provide water and sewer for the proposed new customer services lines, servicing 36 & 46 Driftwood Cottage Lane. Once documentation and service request received, DIUC will prepare an agreement under which service will be provided.	Letter
August 9, 2017	Correspondence from The Pelorus Group indicating they own Melrose Golf Course and are aware of and are cooperating with the efforts of the lot owners along Driftwood Cottage Lane to restore water and sewer utilities and give tentative approval to the plan of Sororian	Letter
August 25, 2017	Terry Lee, owner of DIUC, submits bid for water and sewer relocation	Proposal
September 5, 2017	DHEC communication to Halwig	Storm water construction automatic permanent coverage notification letter
November 21, 2017	Contract and escrow agreement for utility installation	Contract and escrow agreement

December 7, 2017	Pinholster asks the Halwigs and Nollers if they know the new owner of the Melrose Golf Course.	Email
December 8, 2017	Sororian communication to Halwig	Email
December 8, 2017	Communication Melrose attorney to Halwig attorney	Email
December 8, 2017-10:07 a.m.	Pinholster communication to Halwigs and Nollers advising that his guys were confronted by Kevin Roberts who said they couldn't cross the course because it is private property and referenced legal action	Email
December 8, 2017	Melrose attorney communication to Halwig and Halwig attorney	Email
December 8, 2017-4:11 p.m.	Nancy Halwig e-mail to Robin Stanton re fact that you are apparently not aware of prior agreement obtained in September of a water and sewer easement to reconnect our home and the Nollers home. Ask that you honor the commitments made by prior owners.	Email
December 8, 2017-4:47 p.m.	Stanton responds to Nancy Halwig requesting copy of agreement and cease work immediately until it is resolved.	Email
December 14, 2017	Pinholster communication to Melrose attorney	Email (with construction contract and escrow agreement)
December 14, 2017	Pinholster to Melrose attorney and Halwig	Email

December 14, 2017-9:02 a.m.	E-mail from Nancy Halwig to Robin Stanton asking for "permission to complete work so we may use our homes over the holidays."	Email
December 14, 2017-9:20 a.m.	Stanton advises she has forwarded request to her client	Email
December 15, 2017	Sororian communication to Melrose attorney and Halwig	Email (including Melrose authorization for installation)
July 1, 2018	DIUC sends bill for water and sewer service to customers	DIUC invoice dated 7/01/18
July 6, 2018	General Permit issued to Michael Halwig by SCDHEC OCRM	Permit
August 22, 2018	DIUC advises Sororian approving plans for construction of new water and sewer facilities to serve 36 & 46 Driftwood Cottage Lane.	Letter
August 28, 2018	PINCO submits a request for final payment for installation of mains	invoice
August 30, 2018	Completion of installation	Engineer's Certification
September 11, 2018	NJS requests Chad Campbell regarding the responsibility of Complainants and DIUC with respect to replacement of the water and sewer mains.	Letter
September 28, 2018	Thomas & Hutton notice -	Notice of Final Acceptance
October 1, 2018	DIUC sends bill for water and sewer service to customers	DIUC invoice dated 10/01/18
October 16, 2018	Easement for utilities executed by all parties but DIUC	Easement
October 26, 2018	Easement for utilities executed by all parties	Easement dated 10/26/18

October 29, 2018	Agreement addendum proffered by DIUC	Addendum
October 31, 2018	NJS relates to Gressette that the Halwigs and Nollers will not agree to the Addendum to the Customer Service Agreement.	Letter
November 16, 2018	Customer's Complaint filed with PSC	Complaint
December 21, 2018	ORS advises the PSC of request that DIUC immediately restore service to Complainants.	Letter
December 24, 2018	Restoration of service	
December 26, 2018	Gressette advises that service has been restored to 36 & 46 Driftwood Cottage Lane	Letter